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H. R. 4259

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Governmental Affairs

AN ACT

To amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Department of Homeland
5 Security Financial Accountability Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Influential financial management leadership
9 is of vital importance to the mission success of the
10 Department of Homeland Security. For this reason,
11 the Chief Financial Officer of the Department must
12 be a key figure in the Department’s management.

13 (2) To provide a sound financial leadership
14 structure, the provisions of law enacted by the Chief
15 Financial Officers Act of 1990 (Public Law 101–
16 576) provide that the Chief Financial Officer of each
17 of the Federal executive departments is to be a Pres-
18 idential appointee who reports directly to the Sec-
19 retary of that department on financial management
20 matters. Because the Department of Homeland Se-
21 curity was only recently created, the provisions en-
22 acted by that Act must be amended to include the
23 Department within these provisions.

24 (3) The Department of Homeland Security was
25 created by consolidation of 22 separate Federal

1 agencies, each with its own accounting and financial
2 management system. None of these systems was de-
3 veloped with a view to executing the mission of the
4 Department of Homeland Security to prevent ter-
5 rorist attacks within the United States, reduce the
6 Nation's vulnerability to terrorism, and minimize the
7 damage and assist in the recovery from terrorist at-
8 tacks. For these reasons, a strong Chief Financial
9 Officer is needed within the Department both to
10 consolidate financial management operations, and to
11 insure that management control systems are com-
12 prehensively designed to achieve the mission and
13 execute the strategy of the Department.

14 (4) The provisions of law enacted by the Chief
15 Financial Officers Act of 1990 require agency Chief
16 Financial Officers to improve the financial informa-
17 tion available to agency managers and the Congress.
18 Those provisions also specify that agency financial
19 management systems must provide for the system-
20 atic measurement of performance. In the case of the
21 Department of Homeland Security, therefore, it is
22 vitally important that management control systems
23 be designed with a clear view of a homeland security
24 strategy, including the priorities of the Department
25 in addressing those risks of terrorism deemed most

1 significant based upon a comprehensive assessment
 2 of potential threats, vulnerabilities, criticality, and
 3 consequences. For this reason, Federal law should
 4 be amended to clearly state the responsibilities of
 5 the Chief Financial Officer of the Department of
 6 Homeland Security to provide management control
 7 information, for the benefit of managers within the
 8 Department and to help inform the Congress, that
 9 permits an assessment of the Department’s perform-
 10 ance in executing a homeland security strategy.

11 **SEC. 3. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT**
 12 **OF HOMELAND SECURITY.**

13 (a) IN GENERAL.—Section 901(b)(1) of title 31,
 14 United States Code, is amended—

15 (1) by redesignating subparagraphs (G)
 16 through (P) as subparagraphs (H) through (Q), re-
 17 spectively; and

18 (2) by inserting after subparagraph (F) the fol-
 19 lowing:

20 “(G) The Department of Homeland Security.”.

21 (b) APPOINTMENT OR DESIGNATION OF CFO.—The
 22 President shall appoint or designate a Chief Financial Of-
 23 ficer of the Department of Homeland Security under the
 24 amendment made by subsection (a) by not later than 180
 25 days after the date of the enactment of this Act.

1 (c) CONTINUED SERVICE OF CURRENT OFFICIAL.—
2 An individual serving as Chief Financial Officer of the De-
3 partment of Homeland Security immediately before the
4 enactment of this Act, or another person who is appointed
5 to replace such an individual in an acting capacity after
6 the enactment of this Act, may continue to serve in that
7 position until the date of the confirmation or designation,
8 as applicable (under section 901(a)(1)(B) of title 31,
9 United States Code), of a successor under the amendment
10 made by subsection (a).

11 (d) CONFORMING AMENDMENTS.—

12 (1) HOMELAND SECURITY ACT OF 2002.—The
13 Homeland Security Act of 2002 (Public Law 107–
14 296) is amended—

15 (A) in section 103 (6 U.S.C. 113)—

16 (i) in subsection (d) by striking para-
17 graph (4), and redesignating paragraph
18 (5) as paragraph (4);

19 (ii) by redesignating subsection (e) as
20 subsection (f); and

21 (iii) by inserting after subsection (d)
22 the following:

23 “(e) CHIEF FINANCIAL OFFICER.—There shall be in
24 the Department a Chief Financial Officer, as provided in
25 chapter 9 of title 31, United States Code.”; and

(B) in section 702 (6 U.S.C. 342) by striking “shall report” and all that follows through the period and inserting “shall perform functions as specified in chapter 9 of title 31, United States Code, and, with respect to all such functions and other responsibilities that may be assigned to the Chief Financial Officer from time to time, shall also report to the Under Secretary for Management.”.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) in order as subparagraphs (B) through (G).

**SEC. 4. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE
DEPARTMENT OF HOMELAND SECURITY.**

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

“(f) The Secretary of Homeland Security—
“(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security;

1 “(2) shall include in each performance and ac-
2 countability report an audit opinion of the Depart-
3 ment’s internal controls over its financial reporting;
4 and

5 “(3) shall design and implement Department-
6 wide management controls that—

7 “(A) reflect the most recent homeland se-
8 curity strategy developed pursuant to section
9 874(b)(2) of the Homeland Security Act of
10 2002; and

11 “(B) permit assessment, by the Congress
12 and by managers within the Department, of the
13 Department’s performance in executing such
14 strategy.”.

15 (b) IMPLEMENTATION OF AUDIT OPINION REQUIRE-
16 MENT.—The Secretary of Homeland Security shall include
17 audit opinions in performance and accountability reports
18 under section 3516(f) of title 31, United States Code, as
19 amended by subsection (a), only for fiscal years after fiscal
20 year 2005.

21 (c) ASSERTION OF INTERNAL CONTROLS.—The Sec-
22 retary of Homeland Security shall include in the perform-
23 ance and accountability report for fiscal year 2005 sub-
24 mitted by the Secretary under section 3516(f) of title 31,
25 United States Code, an assertion of the internal controls

1 that apply to financial reporting by the Department of
2 Homeland Security.

3 (d) AUDIT OPINIONS OF INTERNAL CONTROLS OVER
4 FINANCIAL REPORTING BY CHIEF FINANCIAL OFFICER
5 AGENCIES.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of the enactment of this Act, the
8 Chief Financial Officers Council and the President’s
9 Council on Integrity and Efficiency established by
10 Executive Order 12805 of May 11, 1992, shall joint-
11 ly conduct a study of the potential costs and benefits
12 of requiring the agencies listed in section 901(b) of
13 title 31, United States Code, to obtain audit opin-
14 ions of their internal controls over their financial re-
15 porting.

16 (2) REPORT.—Upon completion of the study
17 under paragraph (1), the Chief Financial Officers
18 Council and the President’s Council on Integrity and
19 Efficiency shall promptly submit a report on the re-
20 sults of the study to the Committee on Government
21 Reform of the House of Representatives, the Com-
22 mittee on Governmental Affairs of the Senate, and
23 the Comptroller General of the United States.

24 (3) GENERAL ACCOUNTING OFFICE ANAL-
25 YSIS.—Not later than 90 days after receiving the re-

1 port under paragraph (2), the Comptroller General
2 shall perform an analysis of the information pro-
3 vided in the report and report the findings of the
4 analysis to the committees referred to in paragraph
5 (2).

6 **SEC. 5. FUTURE YEARS HOMELAND SECURITY PROGRAM**
7 **AND HOMELAND SECURITY STRATEGY.**

8 Section 874 of the Homeland Security Act of 2002
9 (6 U.S.C. 112) is amended by striking subsection (b) and
10 inserting the following:

11 “(b) CONTENTS.—The Future Years Homeland Se-
12 curity Program under subsection (a) shall—

13 “(1) include the same type of information, or-
14 ganizational structure, and level of detail as the fu-
15 ture years defense program submitted to Congress
16 by the Secretary of Defense under section 221 of
17 title 10, United States Code;

18 “(2) set forth the homeland security strategy of
19 the Department, which shall be developed and up-
20 dated as appropriate annually by the Secretary, that
21 was used to develop program planning guidance for
22 the Future Years Homeland Security Program; and

23 “(3) include an explanation of how the resource
24 allocations included in the Future Years Homeland

1 Security Program correlate to the homeland security
2 strategy set forth under paragraph (2).”.

3 **SEC. 6. ESTABLISHMENT OF OFFICE OF PROGRAM ANAL-**
4 **YSIS AND EVALUATION.**

5 Section 702 of the Homeland Security Act of 2002
6 (6 U.S.C. 342) is amended by—

7 (1) inserting “(a) In General.—” before the
8 first sentence; and

9 (2) adding at the end the following:

10 “(b) PROGRAM ANALYSIS AND EVALUATION FUNC-
11 TION.—

12 “(1) ESTABLISHMENT OF OFFICE OF PROGRAM
13 ANALYSIS AND EVALUATION.—Not later than 90
14 days after the date of enactment of this subsection,
15 the Secretary shall establish an Office of Program
16 Analysis and Evaluation within the Department (in
17 this section referred to as the ‘Office’).

18 “(2) RESPONSIBILITIES.—The Office shall per-
19 form the following functions:

20 “(A) Analyze and evaluate plans, pro-
21 grams, and budgets of the Department in rela-
22 tion to United States homeland security objec-
23 tives, projected threats, vulnerability assess-
24 ments, estimated costs, resource constraints,

1 and the most recent homeland security strategy
2 developed pursuant to section 874(b)(2).

3 “(B) Develop and perform analyses and
4 evaluations of alternative plans, programs, per-
5 sonnel levels, and budget submissions for the
6 Department in relation to United States home-
7 land security objectives, projected threats, vul-
8 nerability assessments, estimated costs, re-
9 source constraints, and the most recent home-
10 land security strategy developed pursuant to
11 section 874(b)(2).

12 “(C) Establish policies for, and oversee the
13 integration of, the planning, programming, and
14 budgeting system of the Department.

15 “(D) Review and ensure that the Depart-
16 ment meets performance-based budget require-
17 ments established by the Office of Management
18 and Budget.

19 “(E) Provide guidance for, and oversee the
20 development of, the Future Years Homeland
21 Security Program of the Department, as speci-
22 fied under section 874.

23 “(F) Ensure that the costs of Department
24 programs, including classified programs, are
25 presented accurately and completely.

1 “(G) Oversee the preparation of the annual
2 performance plan for the Department and the
3 program and performance section of the annual
4 report on program performance for the Depart-
5 ment, consistent with sections 1115 and 1116,
6 respectively, of title 31, United States Code.

7 “(H) Provide leadership in developing and
8 promoting improved analytical tools and meth-
9 ods for analyzing homeland security planning
10 and the allocation of resources.

11 “(I) Any other responsibilities delegated by
12 the Secretary consistent with an effective pro-
13 gram analysis and evaluation function.

14 “(3) DIRECTOR OF PROGRAM ANALYSIS AND
15 EVALUATION.—There shall be a Director of Program
16 Analysis and Evaluation, who—

17 “(A) shall be a principal staff assistant to
18 the Chief Financial Officer of the Department
19 for program analysis and evaluation; and

20 “(B) shall report to an official no lower
21 than the Chief Financial Officer.

22 “(4) REORGANIZATION.—

23 “(A) IN GENERAL.—The Secretary may al-
24 locate or reallocate the functions of the Office,

1 or discontinue the Office, in accordance with
2 section 872(a).

3 “(B) EXEMPTION FROM LIMITATIONS.—
4 Section 872(b) shall not apply to any action by
5 the Secretary under this paragraph.”.

6 **SEC. 7. NOTIFICATION REGARDING TRANSFER OR RE-**
7 **PROGRAMMING OF FUNDS FOR DEPARTMENT**
8 **OF HOMELAND SECURITY.**

9 Section 702 of the Homeland Security Act of 2002
10 (6 U.S.C. 342) is further amended by adding at the end
11 the following:

12 “(c) NOTIFICATION REGARDING TRANSFER OR RE-
13 PROGRAMMING OF FUNDS.—In any case in which appro-
14 priations available to the Department or any officer of the
15 Department are transferred or reprogrammed and notice
16 of such transfer or reprogramming is submitted to the
17 Congress (including any officer, office, or Committee of
18 the Congress), the Chief Financial Officer of the Depart-
19 ment shall simultaneously submit such notice to the Select
20 Committee on Homeland Security (or any successor to the
21 jurisdiction of that committee) and the Committee on Gov-
22 ernment Reform of the House of Representatives, and to
23 the Committee on Governmental Affairs of the Senate.”.

Passed the House of Representatives July 20, 2004.

Attest: JEFF TRANDAHL,
Clerk.